

REMARKS

Claims 28-61 are pending in the application. Claims 31 and 51 have been cancelled without prejudice or disclaimer. Claims 34, 38-40, 42, 54, previously Presented, have been rejoined. Claim 39 has been amended. Accordingly, claims 28-30, 32-50, and 52-61 will be pending in the application upon entry of the amendments presented herein.

Support for the amendment of claim 39 can be found in the specification and claims as originally filed. No new matter has been added.

Unless otherwise specified, reference herein to a specification page number refers to the specification published as WO 2004/006966 (PCT/IB2003/002785).

Applicant gratefully acknowledge the Examiner's decision to rejoin claims 34, 38-40, 42 and 54 to the present application.

Amendment and cancellation of the claims herein should in no way be construed as acquiescence to any of the rejections set forth in this Office Action or any previous Office Action, and were done solely to expedite prosecution. Applicant reserves the right to pursue the claims as originally filed in this or one or more separate applications.

Obviousness-type Double-Patenting Rejection

At pages 2-3 of the Office Action, claims 28, 60 and 61 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 28 of co-pending patent application Ser. No. 11/398,022 (now U.S. Patent 7,358,379). In view of the issuance of U.S. Patent 7, 358,379, Applicant assumes that the obviousness-type double patenting rejection is no longer provisional.

Although Applicant respectfully disagrees with the rejection, in order to expedite prosecution and secure allowance of the application, Applicant will submit a Terminal Disclaimer. Applicant is in the process of obtaining the required signatures from the Assignee of the application and will forward the executed Terminal Disclaimer as soon as possible. Applicant respectfully requests that the Examiner withdraw of the obviousness-type double patenting rejection upon receipt of the executed Terminal Disclaimer.

Rejection under 35 U.S.C. §112, Second Paragraph

Claims 31, 34, 39, 51 and 54 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Although Applicant respectfully disagrees with the stated basis for rejecting the claims, Applicant believes that the present submission addresses the rejection.

Applicant notes that the rejection is moot as to claims 31 and 51, which have been canceled without prejudice or disclaimer.

Claim 39 has been amended to recite the phrase “the one or more androgen steroids”. The phrase finds antecedent basis, for instance, in the language of claim 28 from which it depends.

Claim 34 is rejected on grounds that recitation of a detectably labeled composition in the claim is indefinite. Applicant respectfully disagrees that the claim is at all indefinite, particularly in view of the guidance provided by Applicant’s detailed disclosure in the application and knowledge in the field.

In particular, the application discloses that compositions of the invention can be detectably labeled in a variety of ways. For instance, page 11, lines 2-8, describes known methods of labeling conjugates including the use of radionuclides and electron dense compounds functioning as contrast agents. In addition, pages 18-19, under the heading “Flow Cytometry” provide several examples of detectably labeling the compositions by binding a known fluorescent label (FITC). Moreover, use of certain detectably labeled compositions prepared according to Applicant’s invention is described throughout the Examples section of the application.

Accordingly, Applicant submits that the language of claim 34 is not at all indefinite or unclear to one skilled in the art in view of the guidance provided by the specification and knowledge of detectably labeling compounds that was known in the field at the time the application was filed.

Applicant believes claim 54 fully satisfies the requirements of 35 U.S.C. §112, second paragraph, for the same reasons.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection.

Claim Objections

Applicant notes that Box 7 of the Disposition of Claims on the Office Action Summary page indicates that claims 29, 30, 32, 33, 35-38, 40-50, 52, 53, and 55-59 are objected to. However, reasons for the claim objections (including independent claims 44 and 48) have not been set forth in the Office Action. Nonetheless, Applicant believes that grounds for objecting to the claims have been addressed by this submission.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of all rejections and allowance of the application with all presented herein. If a telephone conversation with Applicant's attorney would serve to expedite further prosecution of the application, Applicant invites the Examiner to contact the undersigned at the telephone number shown below.

Dated: May 30, 2008

Respectfully submitted,

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